

## AGENDA

**RIO DELL PLANNING COMMISSION  
REGULAR (RESCHEDULED) MEETING  
WEDNESDAY, DECEMBER 14, 2011 - 6:30 PM  
CITY COUNCIL CHAMBERS  
675 WILDWOOD AVENUE, RIO DELL**

*WELCOME . . . By your presence in the City Council Chambers, you are participating in the process of representative government. Copies of this agenda, staff reports and other material available to the City Council are available at the City Clerk's office in City Hall, 675 Wildwood Avenue. Your City government welcomes your interest and hopes you will attend and participate in Rio Dell City Council meetings often.*

**THE TYPE OF COMMISSION BUSINESS IS IDENTIFIED IMMEDIATELY AFTER EACH TITLE IN BOLD CAPITAL LETTERS.**

**A. CALL TO ORDER**

**B. ROLL CALL**

**C. PLEDGE OF ALLEGIANCE**

**D. CEREMONIAL**

- 1) 2011/1214.01 - Accept Resignation of Commissioner Sweaney and Receive  
Update on Vacancy Appointment **(RECEIVE & FILE)** 1

**E. CONSENT CALENDAR**

- 1) 2011/1214.02 - Approve Minutes of the November 2, 2011 Regular Meeting  
**(ACTION)** 2

**F. PUBLIC PRESENTATIONS**

*This time is for persons who wish to address the Commission on any matter not on this agenda and over which the Commission has jurisdiction. Items requiring Commission action not listed on this agenda will be placed on the next regular agenda for consideration, unless a finding is made by at least 4/5ths of the Commission that the item came up after the agenda was posted and is of an urgency nature requiring immediate action.*

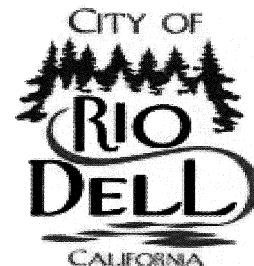
**G. SCHEDULED MATTERS/PUBLIC HEARINGS/STUDY SESSIONS**

- 1) 2011/1214.03 - Resolution No. PC-045 Recommending Amending the Urban Residential (UR) and Suburban Residential (SR) Zones, Sections 17.20.020 and 17.20.030(2)(B) Respectively of the Rio Dell Municipal Code (RDMC) by Removing Home Occupations as Conditionally Permitted Uses **(ACTION)** 11
- 2) 2011/1214.04 - Resolution No. PC-046-2011 Recommending Amending the Second Dwelling Unit Regulations, Section 17.25.180 of the Rio Dell Municipal Code (RDMC) **(ACTION)** 24

#### H. REPORTS/STAFF COMMUNICATIONS

#### I. ADJOURNMENT

*The next Regular Planning Commission meeting is scheduled for  
January 25, 2012 at 6:30 p.m. in the City Council Chambers*



TO: Planning Commission

THROUGH: Ron Henrickson, City Manager

FROM: Karen Dunham, City Clerk

DATE: December 14, 2011

SUBJECT: Planning Commission Vacancy

### **RECOMMENDATION**

Receive and file information. No formal action is required.

### **BUDGETARY IMPACT**

None

### **BACKGROUND AND DISCUSSION**

There is currently one (1) vacancy on the Rio Dell Planning Commission as the result of the resignation of Denise Sweaney. The Notice of Vacancy was posted on November 17, 2011 with the last day for submittal of applications being December 1, 2011.

Two (2) applications for the vacant position on the Planning Commission were received; one from Nick Angeloff and the other from Billy Joe Long. Both candidates were interviewed during the City Council Study Session/Regular Meeting on December 6, 2011. There were only four (4) City Council members present at that meeting and the vote to fill the vacancy resulted in a tie of two votes for each candidate. As a result, the Council directed staff to bring the matter back to the Council at their next regular meeting on December 20, 2011 for a re-vote with a full Council. If a candidate is selected, there will be ample opportunity for him to be sworn in and seated prior to the January 26, 2011 regular Planning Commission meeting.

**CITY OF RIO DELL  
PLANNING COMMISSION  
REGULAR MEETING  
NOVEMBER 2, 2011**

**CALL TO ORDER**

The Regular meeting of the Rio Dell Planning Commission was called to order at 6:30 p.m. by Planning Commissioner Gonzales.

Present were Commissioners Gonzales, Chapman, Johnson and Sweaney. Absent was Commissioner Millington (arrived at 7:18 p.m.)

Others present were City Manager Henrickson, Community Development Director Caldwell, Chief of Police Hill and City Clerk Dunham.

**CONSENT CALENDAR**

Motion was made by Chapman/Johnson to approve the consent calendar including the approval of minutes of the July 27, 2011 regular meeting. Motion carried 4-0.

**PUBLIC PRESENTATIONS**

None

**SPECIAL PRESENTATIONS**

City Manager Henrickson stated at the November 1, 2011 City Council meeting City staff presented a concept plan for the development of a "new downtown" on the 20 acre site adjacent to State Highway 101 and south of the Davis Street interchange. He said this vision encompasses two main elements: 1) the creation of a new downtown commercial and public center; and 2) a new focus on the existing core commercial area on Wildwood Ave. He said the proposed site would essentially become "the heart of the City" and likely be the nicest commercial development north of Sacramento. He presented a concept drawing of the proposed project which would encompass 12 lots anchored by a large supermarket, and surrounded by a gas station, two motels, restaurants and a variety of retail and service shops.

He further stated that in order to implement the plan, the City would enter into an Option Agreement with the property owner which would be exercised only if the City were successful in obtaining a sufficient number of executed Development Agreements with main stream companies so the City's development costs could be recouped by the sale of the lots. He said once signed Development Agreements are obtained, the City would proceed with acquisition of the property, installation of necessary infrastructure, and sale



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of the lots. It was noted that unlike a private developer, the City would put any profits back into the development.

Commissioner Sweaney asked what the plans were for installing a sidewalk system that would connect to the site; City Manager Henrickson stated plans for street and sidewalk improvements would be presented at a later date. Commissioner Sweaney further stated that there are citizens who don't want to shop in Eureka so the idea makes sense.

Commissioner Gonzales expressed concern about the City taking on the role of the developer and asked the City Manager if he had a vision for the type of staff needed to take on such a venture. Commissioner Gonzales said the Strong Creek Plaza in Fortuna is a good example of what the proposed development might resemble and said that project was a huge undertaking.

City Manager Henrickson said the City is very fortunate to have staff that has done this type of thing before and said he personally has done several such projects and the work he has done thus far such as the concept drawings hasn't cost the City any additional fees. He said staff believes there is a real market for such a development but also recognizes that we are in the worst financial economy in recent history and that commitments for new developments are rare. The focus will be to entice a large supermarket as it will be the key anchor of the development.

Commissioner Chapman commented that the development would obviously increase sales tax revenue for the City but wondered about property tax revenue; City Manager Henrickson commented that property tax revenue would also increase for the City.

**Ayala Tacpai** stated that in listening to the discussion, the assumption is that growth is good but questioned what is wrong with leaving things "status quo". She said she lived in Oregon and saw what negative effects Wal-Mart can have on a community.

City Manager Henrickson responded stating that City staff was recently reduced by 30% because the City did not have the revenue to sustain that level of staffing; the plans for annexation of Scotia died; we have the worse streets in the County and have no way to fund maintenance (only \$8,000 in street maintenance was spent last year); there are storm water issues that can't be addressed because of the lack of funding; and the City is under a Cease and Desist Order for Wastewater violations that must be addressed. He said this project could be the answer in addressing some or all of these issues and the City should take advantage of this small window of opportunity to utilize his skills for no additional expense to at least explore the development possibility further.

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Commissioner Gonzales commented that in looking at the concept drawing it shows how this parcel sits within the community. He said it is located along the Highway 101 corridor yet technically is in the heart of the City.

City Manager Henrickson excused himself and left the meeting at this time, 7:05 p.m.

**SCHEDULED MATTERS/PUBLIC HEARINGS**

Resolution No. PC-043-2011 Recommending Approval of Flag Lot Regulations

Community Development Director Caldwell stated on September 28, 2011 a joint study session was held with the City Council and Planning Commission and at that time staff was directed to prepare an ordinance regarding the creation of flag lots. He said although the City does not currently have provisions regarding the creation of flag lots, there are a number of flag lots that have been approved over the past few years. He said most jurisdictions discourage flag lots except where extreme topographic conditions or other physical and natural constraints of the parcel do not allow for the conventional subdivision of the parcel, or to allow for infill. Also most jurisdictions only allow flag lots in residential zones.

He then presented a diagram showing an example of a flag lot and said that by definition, a flag lot is a lot that has less than the required minimum street frontage on a public or private street where the lot has two distinct parts: 1) the flag, which is the building site and is located behind another lot; and 2) the pole which connects the flag to the street. His recommendation was that flag lots only be allowed in residential zones; that home occupations and secondary dwellings be prohibited because of limited access and the greater impacts these uses would place on abutting sites; the minimum lot area excluding the pole portion of the lot be 6,000 sq. ft.; the minimum lot width 60 feet; the minimum lot depth 100 feet; the minimum width of the pole portion of 1 flag lot be 16 feet, with a 12 foot travel way and 4 foot landscape strip; if 2 or more flag lots will use the same access driveway, the minimum combined width of the pole portions be 24 feet, with two 8 foot travel ways and two landscape strips; lot line adjustments will not be used to create flag lots and access poles exceeding 125 feet in length will be required to provide an emergency vehicle turn-around area approved by the Rio Dell Fire Protection District.

Community Development Caldwell noted that there may be exceptions to the flag lot regulations with a Conditional Use Permit if certain findings are made.

Commissioner Johnson asked if there are currently undeveloped flag lots existing in the City; Caldwell referred to the undeveloped flag lots at 108 Painter St.

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Commissioner Gonzales referred to the potential flag lots on Ogle and Bellevue and asked if those developments would come before the Planning Commission for consideration; Community Development Caldwell explained that they would and that some of those lots don't provide for any other option other than a flag lot.

A public hearing was opened at 7:18 p.m. to receive public comment on the proposed resolution. There being no public comment, the public hearing closed.

**Commissioner Millington arrived at this time, 7:18 p.m.**

Motion was made by Chapman/Johnson to approve *PC 043-2011 Recommending that the City Council Amend Section 17.10.010, "Definitions" to Include Flag Lot and Chapter 17.25 of the Rio Dell Municipal Code Establishing Flag Lot Regulations and Approve and Adopt the Flag Lot Ordinance*. Motion carried 4-0; with Commissioner Millington abstaining.

Resolution No. PC 044-2011 Recommending Approval of Amending Title 17 by Reformatting and Renaming Sections 17.25, 17.30, and 17.35 of the Rio Dell Municipal Code (RDMC)

Community Development Caldwell stated this item basically relates to a house cleaning matter since he discovered there are a number of General Provisions and Exceptions found in Chapter 17.25 of the Rio Dell Municipal Code (RDMC) that are not in alphabetical order. Also he identified some other issues that should be addressed stating that currently *Accessory Uses* and *Accessory Buildings* are contained in different sections of the RDMC but should be together as they are directly related. In addition the *Height Limitations and Modifications* provision, currently found in Section 17.25.070 actually contains height limitations for accessory buildings. As a result, he recommended deletion of Section 17.25.070. Another suggestion is that *Nonconforming Use* provisions be included in the General Provisions and Exceptions regulations, Chapter 17.25 rather than be included under Chapter 17.30 as they currently are. In regard to *Planned Development*, he suggested a separate chapter be established for overlay zones more commonly known as combining zones and to establish a section for a *Design Review* combining zone for future use.

Commissioner Chapman asked for clarification that the issue is not with the code itself but rather the organization; Community Development Director Caldwell confirmed that the revisions will basically get the ordinance in a more user-friendly order.

A public hearing was opened at 7:25 p.m. to receive public comment on the proposed resolution. There being no public comment, the public hearing closed at 7:26 p.m.

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Motion was made by Millington/Sweaney to approve *Resolution PC-044-2011 Recommending Approval of Amending Title 17 by Reformatting and Renaming Sections 17.2, 5 17.30, and 17.35 of the Rio Dell Municipal Code*. Motion carried 5-0.

Review of Draft Animal Control Regulations

Chief of Police Hill stated several months ago he presented a Draft Animal Control Ordinance to the City Council for its first review. At that time he provided a brief overview of the draft ordinance and asked for comments from the Council and the public. One suggestion from the Council was that he obtain a copy of the County of Humboldt's Animal Regulations for review. He said the purpose tonight is to discuss issues and concerns with the revised draft ordinance.

Commissioner Millington stated she reviewed the draft ordinance and wrote notes on most every page. She said in general she would like to see incorporated into the ordinance a Breeding Ordinance and include language consistent with State law such as holding periods for animals. She said also she would like to see the title of the ordinance changed to something like "Animal Care & Control Ordinance."

Chief Hill noted that the final draft ordinance will be reviewed by the City Attorney prior to adoption.

Commissioner Johnson asked if the City currently has an Animal Control Ordinance in effect; Chief Hill answered that the current ordinance (244) was adopted in 2002 and has flaws and is outdated.

Commissioner Johnson then asked if the City currently has a facility to store stray dogs and cats; Chief Hill explained the City has a cooperative agreement with the City of Fortuna to handle dogs when dog bites are involved; otherwise the animals are taken to Miranda's Animal Shelter.

Commissioner Johnson asked how we dispose of animals; Chief Hill stated if it becomes absolutely necessary to dispose of an animal, the City of Fortuna has an officer trained to euthanize.

Commissioner Johnson asked what if any anticipated costs were associated with update of the ordinance in regard to staff; Chief Hill stated he didn't anticipate any changes in how animals are handled at this time but in the future we may need to consider establishing a Community Services/Animal Control Officer position.

Commissioner Sweaney asked if the number of cows and horses allowed on a particular parcel was grandfathered in; Commissioner Gonzales noted those regulations are established under the zoning ordinance and therefore a separate issue.

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Commissioner Chapman referred to page 10 of the draft ordinance under *Limitations* and asked for clarification on the sentence stating: "*It is unlawful for any person or persons to own, harbor or maintain at any single-family dwelling more than three dogs or cats four months of age or older*" and wondered if it means 3 dogs and 3 cats or a total combination of 3. Chief Hill stated his interpretation is that there can be 3 of each.

Commissioner Millington suggested on Page 1 under *Purpose*, a Number 4 is added to say: "*Provide for population pet controls related to breeding.*"

Commissioner Millington then asked for clarification at the bottom of Page 1 under *Kennel* stating that it refers to animals ten (10) weeks in age or older yet later through the ordinance it refers to animals four (4) months or older. Chief Hill said there is a different distinction between those two references.

Commissioner Millington stated there seems to be a lot of coverage in the ordinance regarding kennels and asked if there are currently any kennels existing in the City; Chief Hill said there currently are no kennels but the current ordinance does not address kennels and one problem now is with multiple families residing on one parcel and each family having multiple animals.

Commissioner Sweaney stated that she would like to see micro-chipping of animals addressed; Community Development Caldwell responded that it commonly occurs in large cities however it is somewhat difficult to enforce in rural areas.

Commissioner Gonzales said one idea would be to offer reduced license fees as an incentive to pet owners who have micro-chips inserted in their pets.

Commissioner Sweaney referred to Page 1 under *Dog* and asked whether lions should be listed as exclusions along with Coyotes and Foxes etc. Chief Hill said that owning or harboring a lion is prohibited in the State of California and is not a domestic issue here.

Commissioner Millington referred to Page 2 under *Owner* and asked for clarification if someone basically steals a dog are they then the owner; Chief Hill used the example of someone who steals a dog and while walking it on a lease it bites someone, both the owner and the person who stole the dog could be liable. The question then arose regarding proof of ownership; Chief of Hill said proof may be obtained through the dog license or if the dog is AKC registered, through that registration. It is basically a civil issue and up to the owner to prove and said the police department acts on reasonable suspicion; it then becomes under the preponderance of the court.

Commissioner Millington suggested under *Vaccination* language be added to include "*for epidemic control*" rather than to limit to anti-rabies vaccines.

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Commissioner Gonzales referred to Page 13 of the ordinance under *Fee* and said in reviewing the County Ordinance there is a separate annual license fee for a pack of five (5) or more hound dogs used for hunting purposes and suggested that be considered when establishing fees by City Council Resolution. Also he said in reading page 26 Item 2 regarding potentially dangerous or vicious dogs he didn't see where it addresses dogs that kill or injure livestock and asked how that issue was being addressed. Chief Hill stated that it is an important issue and is actually addressed under State law.

Community Development Director Caldwell left the meeting at this time, 7:58 p.m.

Commissioner Chapman asked why cats are an exception to the noise disturbance regulation; Chief Hill commented that cats are consider a "free agent" and therefore not handled in the same manner as dogs. He said that live traps are offered to citizens to assist in trapping stray cats when needed.

Commissioner Millington referred to Page 3, Item 1 regarding dog fighting and wondered about "bate dogs."

Commissioner Johnson asked if there are citizens who will be impacted by the number of animals allowed under the new ordinance; Chief Hill commented that there will most likely be some pet owners who will be impacted.

Commissioner Millington referred to Page 3, Item 3 regarding a dog defined as vicious if it inflicts severe injury or kills a human being, and asked if it would also be potentially dangerous or vicious if it kills a cat. She questioned whether that was a realistic statement; Chief Hill felt that is was. He explained when a dog running at large kills, it is entirely different than if a dog barks at a mail carrier in its own yard.

Commissioner Gonzales noted that certain genetic make-up of dogs seem to be territorial and sometimes dangerous and asked if the breed is a factor in determining whether they are potentially dangerous; Chief Hill pointed out that a dog owner must be in control of their animal at all times regardless of breed.

Commissioner Millington said "public nuisance" has several definitions and asked if there is a level of damage defined or that it simply means any damage; Chief Hill explained in his opinion the damage must be reasonable and the court could make that determination if it is disputed to that level.

Commissioner Sweaney asked if the poisoning of dogs was addressed in the ordinance; Chief Hill stated it is a felony to poison a dog and would be handled as such.

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Commissioner Millington suggested that reference be made in the ordinance stating the State Penal Code section regarding poisoning of dogs.

On Page 9 under *Kennels after license revocation*, which states: “No person shall operate or maintain a kennel within one year after the revocation of a kennel license”

Commissioner Millington asked why anyone would be allowed to have a kennel license reinstated after a violation occurs; Chief Hill stated in certain circumstances the licensee may deserve to remedy the violation and re-apply.

Commissioner Millington referred to Page 10 under *Interference with enforcement* and suggested the words “while such person” be changed to read “officer or agent” for better clarity. Under “Limitations” she felt it is unreasonable to limit the number of cats to 3 or 4 and felt 5 would be more reasonable. Commissioner Gonzales disagreed stating that he felt 3 cats per residence was sufficient.

Commissioner Millington referred to Page 11, Item 2 which states: “All other violations shall be an infraction” and suggested the sentence be deleted; Chief Hill disagreed.

Commissioner Gonzales noted that in reading the draft ordinance he discovered some minor typos and agreed to e-mail them to the Chief so he could make the corrections.

Chief Hill then asked Commissioners if there were any items included in the County ordinance that they would like to see incorporated into the City’s draft ordinance.

Commissioner Millington suggested there be no fee charged for the first lost dog tag to encourage pet owners to replace lost tags; Chief Hill stated that the fee for replacement tags is very minimal and does not even cover the city’s actual cost for replacement when you take into consideration the cost of the tag and staff time for processing.

Other suggested revisions by Commissioner Millington included the following:

Page 19 – *Surrendered or abandoned animals: Adoption, Immunization* – Item 2 be revised to read “The Chief of Police and/or his designee may authorize the immunization of any dog, **4 months of age or more**, rather than 6 months of age or less as stated. Chief agreed to change the language to read “**at least 4 months of age**”.

Page 20 – *Euthanasia* – Item 1 be revised to read “The Chief of Police may **facilitate**, not **provide** euthanasia services on animals whose owners request it.

Page 21 – *Animal Traps* – Item 1 be revised to read “The Chief of Police or his/her designee may loan animal traps and provide related **retrieval** services for persons who request it rather than “pick” services.

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Page 21 – *Liability* - Commissioner Millington asked what it meant when it stated that “No person shall be liable for the disposition of any animal in accordance with the provisions of this chapter”. Chief Hill explained that as long as the animal is disposed of in accordance with the provisions of this chapter, no person shall be liable.

Page 25 – *When dogs may not be declared POTENTIALLY DANGEROUS, VICIOUS, OR a NUISANCE* - Commissioner Millington asked if in the event there was a police raid on a property and a dog attacks an officer, will the officer shoot the dog. Chief Hill stated the officer must take reasonable precautions to deter the dog from biting but may pepper spray the dog or take other necessary steps to protect the officer and the residents.

Page 29 – *Removal from list* – Commissioner Millington asked if there is currently a list on file in the City of potentially dangerous dogs and if so, if they are automatically removed from the list after the designated time; Chief Hill stated there are none pending under that classification at this time but they would be removed at the appropriate time.

The Chief announced the draft ordinance would be coming back to the Planning Commission for further review at the January, 2012 regular meeting.

**ADJOURNMENT**

City Clerk Dunham announced the date for the next regular meeting was pending due to the Thanksgiving holiday and that she would notify Commissioners of the re-scheduled meeting date once it has been determined.

The meeting adjourned at 8:47 p.m.

\_\_\_\_\_  
Dave Gonzales, Chair

Attest:

\_\_\_\_\_  
Karen Dunham, City Clerk



675 Wildwood Avenue  
Rio Dell, CA 95562  
(707) 764-3532



For Meeting of: December 14, 2011

To: Planning Commission  
From: Kevin Caldwell, Community Development Director *(Signature)*  
Through: Ron Henrickson, City Manager *RA*  
Date: November 3, 2011  
Subject: Urban and Suburban Residential Zones & Home Occupation Permits

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### Recommendation:

That the Planning Commission:

1. Receive staff's report regarding amending the Urban Residential (UR) and Suburban Residential (SR) zones to remove Home Occupations as a conditionally permitted use.
2. Open the public hearing, receive public input and deliberate;
3. Adopt Resolution No. 45-2011 recommending that the City Council amend Sections 17.20.020(2)(a) and 17.20.030(2)(b) of the Rio Dell Municipal Code by removing Home Occupations as a conditionally permitted use.

### Background and Discussion

It was recently brought to staff's attention that Home Occupations require a Conditional Use Permit in the Urban Residential and Suburban Residential zones. Please refer to **Attachment 1** the development standards for both the Urban Residential and Suburban Residential zone.

The Home Occupation provisions, Section 17.25.080 of the Rio Dell Municipal Code (RDMC), included as **Attachment 2**, clearly allows Home Occupations as an accessory use in residential zones which meet the development standards contained therein. Staff has historically approved Home Occupations in all residential zones (i.e. Urban Residential (UR), Suburban Residential (SR), Suburban (S), Suburban Medium (SM) and Rural (R)) that meet the prescribed development standards as principally permitted uses.

Therefore staff is recommending amending Sections 17.20.020(2)(a) and 17.20.030(2)(b) of the Rio Dell Municipal Code by removing Home Occupations as conditionally permitted uses.

## California Environmental Quality Act (CEQA).

Typically, amendments to the Rio Dell Municipal Code (RDMC) are subject to the California Environmental Quality Act (CEQA). The primary purpose of CEQA is to inform the decision makers and the public of potential environmental effects of a proposed **project**. Pursuant to Section 15378 of the CEQA Guidelines, "Project means the whole of an action, which has the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect change in the environment." The proposed amendments correct a inconsistency within the Rio Dell Municipal Code and does not result in the creation or elimination of any regulations or provisions. Therefore, staff believes the amendments do not constitute a project and is thereby not subject to CEQA.

If it were argued that the proposed amendments are considered a "project" subject to CEQA, based on the nature of the amendments, staff has determined the amendments would be Statutorily Exempt pursuant to Section 15061(b) (3) of the CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations. Pursuant to Section 15061(b) (3) of the CEQA Guidelines this exemption is covered by the general rule that CEQA applies only to projects which have the potential for causing a **significant** effect on the environment. Where it can be seen with certainty that there is no possibility that the project, the reformatting of existing regulations in this case, may have a significant effect on the environment, the project is not subject to CEQA. Staff is not aware of any evidence that would suggest that the proposed amendments could result in a **significant** effect on the environment

## Financial Impact

The City is responsible for the costs associated with the proposed amendments. The cost is insignificant and will not result in additional budget expenditures or revisions.

## Alternatives

The Planning Commission may choose not to recommend approval of the proposed amendments. Staff does not recommend this alternative.

## Attachments

Attachment 1: Urban Residential and Suburban Residential Development Standards.

Attachment 2: Home Occupation Development Standards.

Attachment 3: Resolution No. 045 - 2011 recommending approval of the proposed amendments to the City Council.

Attachment 4: Draft Ordinance No. 280 – 2011 amending Title 17 of the Rio Dell Municipal Code.

Attachment 5: Pre-Adoption Summary for Posting.

Attachment 6: Post-Adoption Summary for Posting.

City of Rio Dell  
Rio Dell Municipal Code



**17.20.030 Urban Residential or UR zone.**

The purpose of the urban residential or UR zone is to provide neighborhood residential areas with varying densities for single-family dwellings. The following regulations shall apply in all urban residential or UR zones:

**(1) Principal Permitted Uses.**

- (a) Detached single-family dwellings.

**(2) Uses Permitted with a Use Permit.**

- (a) Attached dwellings with a minimum lot size of 4,000 square feet;
- (b) Home occupation businesses, including health services related businesses;
- (c) Rooming and boarding of not more than two persons not employed on the premises;
- (d) Public and private non-commercial recreation facilities;
- (e) Schools, churches, civic and cultural uses including City offices and day care centers.

**(3) Other Regulations.**

See Table 17.20.030 for development standards for the urban residential (UR) zones

**Table 17.20.030  
Development Standards for the Urban Residential or UR Zone**

Site Development Standard	Zone Requirement	Measurement
Minimum Lot Area	6,000	Square feet
Maximum Ground Coverage	50%	
Minimum Lot Width	60	Feet
Minimum Yard		
Front:	20	Feet
Rear:	10	Feet
Side:	5	Feet
Maximum Building Height	35 feet	Feet

**17.20.020 Suburban Residential or SR zone.**

The purpose of the suburban residential or SR zone is to provide land for low-density residential uses. The following regulations shall apply in all suburban residential or SR zones:

**(1) Principal Permitted Uses.**

- (a) Single-family dwellings.

**(2) Uses Permitted with a Use Permit.**

- (a) Home occupation businesses;
- (b) Bed and breakfast inn; and
- (c) Civic and cultural uses including City offices, public facilities, and day care centers.

**(3) Other Regulations.**

See Table 17.20.020 for development standards for the suburban residential (SR) zone.

**Table 17.20.020**  
**Development Standards for the Suburban Residential or SR Zone**

Site Development Standard	Zone Requirement	Measurement
Minimum Lot Area	12,000	Square feet
Maximum Ground Coverage	50%	
Minimum Lot Width	75	Feet
Minimum Yard		
Front:	25	Feet
Rear:	20	Feet
Side:	6	Feet
Maximum Building Height	35 feet	Feet

**17.30.120 Home occupation businesses.**

(1) Minimum Performance Standards. Home occupations, as defined herein, ***shall be permitted as appurtenant and accessory uses to any residential use*** (emphasis added), subject to the following minimum performance standards:

(a) The primary function of a home occupation shall not necessitate the rendering of services to customers or clients on the premises;

(b) A home occupation shall not include, but such exclusion shall not be limited to, the following: automobile repair, automobile wrecking, barber shops and beauty parlors, commercial stables, veterinary offices, kennels, or restaurants;

(c) There shall be no more than one home occupation in any dwelling unit;

(d) Home occupation permits shall be limited to the applicant only and shall not be transferable;

(e) The activity shall be limited to the hours between 7:00 a.m. and 10:00 p.m.;

(f) The occupation or profession shall be carried on wholly within a dwelling unit or accessory building;

(g) Not more than 20 percent of the total floor area within the dwelling unit shall be used in connection with any home occupation;

(h) There shall be no exterior display, no exterior storage of material and no other exterior indication of the home occupation or variation from the residential character of the principal building;

(i) A home occupation shall not create pedestrian, automobile, or truck traffic significantly in excess of the normal amount in the district;

(j) No mechanical equipment shall be used that produces offensive noise, vibration, smoke, dust, odors, or heat. No lighting that produces offensive glare shall be used;

(k) No signs, nameplates, or other advertising shall be affixed to the premises;

(l) Special considerations, exceptions, etc., may be granted by the Planning Commission upon submittal of satisfactory evidence of physical handicap, which precludes normal employment or conduct of business anywhere but as a home occupation;

(m) Any business not complying with the above standards shall require a conditional use permit.

(2) Business License Required. Every home occupation permittee shall obtain a business license.

(3) Home Occupation Permit Required. In order to ensure that the intent of this regulation is implemented and that all home occupations will be operated under the performance standards required herein, all home occupations in the City of Rio Dell must secure approval of a home occupation permit. Such home occupation permit shall contain a listing of all home occupation performance standards and a certification that the applicant has read and agrees to comply with all City regulations and performance standards contained therein.

(4) Action by the Planning Secretary. The Planning Secretary is authorized to grant a home occupation permit only upon a finding that the nature of the use and/or past performance of the requested use or similar use demonstrates the ability to fully conform with the intent of this section and the performance standards. The Planning Secretary may refuse a home occupation permit even though the proposed use may appear technically in conformance with all of the performance standards, if the possibility exists that the proposed use will not be in keeping with the intent of this title.

(5) Appeal. The decision of the Planning Secretary may be appealed to the Planning Commission by the applicant or any interested party. [Ord. 252 § 6.08, 2004.]

RESOLUTION NO. PC 045 - 2011

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIO DELL  
RECOMMENDING AMENDING THE URBAN RESIDENTIAL (UR) AND SUBURBAN  
RESIDENTIAL (SR) ZONES, SECTIONS 17.20.020(2)(A) AND 17.20.030(2)(B)  
RESPECTIVELY OF THE RIO DELL MUNICIPAL CODE BY REMOVING HOME  
OCCUPATIONS AS CONDITIONALLY PERMITTED USES:**

**WHEREAS** it was recently brought to staff's attention that Home Occupations require a Conditional Use Permit in the Urban Residential and Suburban Residential zones; and

**WHEREAS** the Home Occupation provisions, Section 17.25.080 of the Rio Dell Municipal Code (RDMC) clearly allows Home Occupations as an accessory use in residential zones which meet the development standards contained therein; and

**WHEREAS** staff has historically approved Home Occupations in all residential zones (i.e. Urban Residential (UR), Suburban Residential (SR), Suburban (S), Suburban Medium (SM) and Rural (R)) that meet the prescribed development standards in Section 17.25.080 of the Rio Dell Municipal Code (RDMC) as principally permitted uses; and

**WHEREAS** the City has reviewed and processed the proposed minor text amendment in conformance with Sections 65350 – 65362 of the California Government Code; and

**WHEREAS** the City has reviewed and process the proposed text amendments in conformance with Section 17.30.010 of the City of Rio Dell Municipal Code; and

**WHEREAS** the City finds that based on evidence on file and presented in the staff report that the proposed minor text amendments are deemed to be in the public interest; and

**WHEREAS** the City finds that based on evidence on file and presented in the staff report that the proposed text amendments are consistent and compatible with a comprehensive view of the General Plan and any implementation programs that may be affected; and

**WHEREAS** the City finds that based on evidence on file and presented in the staff report that the potential impacts of the proposed text amendments have been assessed and have been determined not to be detrimental to the public health, safety, or welfare; and

**WHEREAS** the proposed text amendments have been processed in accordance with the applicable provisions of the California Government Code and the California Environmental Quality Act (CEQA); and

**WHEREAS** the City has determined that the project is Statutorily Exempt pursuant to Section 15061(b) (3) of the CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations.

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Commission of the City of Rio Dell recommends that the City Council adopt Ordinance No, 280-2012 amending the Urban Residential (UR) and Suburban Residential (SR) zones, Sections 17.20.020(2)(a) and 17.20.030(2)(b) respectively of the Rio Dell Municipal Code by removing Home Occupations as conditionally permitted uses

**PASSED AND ADOPTED** by the Planning Commission of the City of Rio Dell at their meeting of December 14, 2011 by the following vote:

AYES:	Commissioners:
NOES:	Commissioners:
ABSENT:	Commissioners:
ABSTAIN:	Commissioners:

\_\_\_\_\_  
Dave Gonzales, Chair

ATTEST:

\_\_\_\_\_  
Karen Dunham, City Clerk



ORDINANCE NO. 280 - 2012

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIO DELL AMENDING THE URBAN RESIDENTIAL (UR) AND SUBURBAN RESIDENTIAL (SR) ZONES, SECTIONS 17.20.020(2)(A) AND 17.20.030(2)(B) RESPECTIVELY OF THE RIO DELL MUNICIPAL CODE BY REMOVING HOME OCCUPATIONS AS CONDITIONALLY PERMITTED USES

THE CITY COUNCIL OF THE CITY OF RIO DELL DOES ORDAIN AS FOLLOWS:

**WHEREAS** it was recently brought to staff's attention that Home Occupations require a Conditional Use Permit in the Urban Residential and Suburban Residential zones; and

**WHEREAS** the Home Occupation provisions, Section 17.25.080 of the Rio Dell Municipal Code (RDMC) clearly allows Home Occupations as an accessory use in residential zones which meet the development standards contained therein; and

**WHEREAS** staff has historically approved Home Occupations in all residential zones (i.e. Urban Residential (UR), Suburban Residential (SR), Suburban (S), Suburban Medium (SM) and Rural (R)) that meet the prescribed development standards in Section 17.25.080 of the Rio Dell Municipal Code (RDMC) as principally permitted uses; and

**WHEREAS** the City has reviewed and processed the proposed minor text amendment in conformance with Sections 65350 – 65362 of the California Government Code; and

**WHEREAS** the City has reviewed and process the proposed text amendments in conformance with Section 17.30.010 of the City of Rio Dell Municipal Code; and

**WHEREAS** the City finds that based on evidence on file and presented in the staff report that the proposed minor text amendments are deemed to be in the public interest; and

**WHEREAS** the City finds that based on evidence on file and presented in the staff report that the proposed text amendments are consistent and compatible with a comprehensive view of the General Plan and any implementation programs that may be affected; and

**WHEREAS** the City finds that based on evidence on file and presented in the staff report that the potential impacts of the proposed text amendments have been assessed and have been determined not to be detrimental to the public health, safety, or welfare; and

**WHEREAS** the proposed text amendments have been processed in accordance with the applicable provisions of the California Government Code and the California Environmental Quality Act (CEQA); and

**WHEREAS** the City has determined that the project is Statutorily Exempt pursuant to Section 15061(b) (3) of the CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations.

**WHEREAS** pursuant to the requirements of state and local law, the Planning Commission conducted a duly noticed public hearing on December 14, 2011 to consider the proposed text amendment, at which time all interested person were given an opportunity to be heard; and

**WHEREAS** the Planning Commission following said public hearing recommends that the City Council approve and adopt the recommended amendments; and

**WHEREAS** the City Council approves the recommended text amendment amending the Urban Residential (UR) and Suburban Residential (SR) zones, Sections 17.20.020(2)(a) and 17.20.030(2)(b) respectively of the Rio Dell Municipal Code by removing Home Occupations as conditionally permitted uses; and

**NOW, THEREFORE BE IT RESOLVED**, that the City Council of the City of Rio Dell does hereby ordain as follows:

### **Section 1. Urban Residential Zone**

Sections 17.20.020(2)(a) of the Rio Dell Municipal Code is hereby repealed and amended by removing Home Occupations as conditionally permitted uses

### **Section 2. Suburban Residential Zone**

Sections 17.20.030(2)(b) of the Rio Dell Municipal Code is hereby repealed and amended by removing Home Occupations as conditionally permitted uses

### **Section 3. Severability**

If any provision of the ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

### **Section 4. Limitation of Actions**

Any action to challenge the validity or legality of any provision of this ordinance on any grounds shall be brought by court action commenced within ninety (90) days of the date of adoption of this ordinance.

### **Section 5. Effective Date**

This ordinance becomes effective thirty (30) days after the date of its approval and adoption.

**I HEREBY CERTIFY** that the forgoing Ordinance was duly introduced at a regular meeting of the City Council of the City of Rio Dell on January 3, 2012 and furthermore the forgoing Ordinance was passed, approved and adopted at a regular meeting of the City Council of the City of Rio Dell, held on the 17<sup>th</sup> day of January 2012 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

Julie Woodall, Mayor

ATTEST:

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Karen Dunham, City Clerk

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675 Wildwood Avenue  
Rio Dell, CA 95562  
(707) 764-3532



### **SUMMARY FOR POSTING PRIOR TO ADOPTION OF ORDINANCE**

(The summary shall be published or posted at least 10 calendar days prior to the City Councils meetings)

#### **Summary**

On **January 3, 2012** at a regularly scheduled City Council meeting, the Rio Dell City Council will duly introduce, consider for approval and adoption of an Ordinance amending the Urban Residential (UR) and Suburban Residential (SR) zones Sections 17.20.020(2)(a) and 17.20.030(2)(b) respectively of the Rio Dell Municipal Code by removing Home Occupations as conditionally permitted uses.

On **January 17, 2012** at a regularly scheduled City Council meeting, the Rio Dell City Council is scheduled to adopt Ordinance 280 -2012 amending the Urban Residential (UR) and Suburban Residential (SR) zones Sections 17.20.020(2)(a) and 17.20.030(2)(b) respectively of the Rio Dell Municipal Code by removing Home Occupations as conditionally permitted uses.

A certified copy of the full text of the Ordinance is posted in the office of the City Clerk. General questions regarding the Ordinance, the planning process, submission of materials and information not specific to this project may be obtained from the City, 675 Wildwood Avenue, Rio Dell, CA. 95562; telephone (707) 764-3532.

Posted December 23, 2011

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675 Wildwood Avenue  
Rio Dell, CA 95562  
(707) 764-3532



## **SUMMARY FOR POSTING AFTER ADOPTION OF ORDINANCE**

(The summary shall be published or posted within 10 calendar days after the adoption of the ordinance)

### **Summary**

On **January 17, 2012** at a regularly scheduled City Council meeting, the Rio Dell City Council adopted Ordinance 280 -2012 amending the Urban Residential (UR) and Suburban Residential (SR) zones Sections 17.20.020(2)(a) and 17.20.030(2)(b) respectively of the Rio Dell Municipal Code by removing Home Occupations as conditionally permitted uses.



A certified copy of the full text of the Ordinance is posted in the office of the City Clerk. General questions regarding the Ordinance, the planning process, submission of materials and information not specific to this project may be obtained from the City, 675 Wildwood Avenue, Rio Dell, CA. 95562; telephone (707) 764-3532.

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675 Wildwood Avenue  
Rio Dell, CA 95562  
(707) 764-3532



For Meeting of: December 14, 2011

To: Planning Commission  
From: Kevin Caldwell, Community Development Director   
Through: Ron Henrickson, City Manager   
Date: November 7, 2011  
Subject: Second Unit Regulations

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### Recommendation:

That the Planning Commission:

1. Receive staff's report regarding amending the existing Second Unit Regulations.
2. Open the public hearing, receive public input and deliberate;
3. Adopt Resolution No. 46-2011 recommending that the City Council amend the Section 17.25.180 of the Rio Dell Municipal Code.

### Background and Discussion

At the City Council, Planning Commission joint study session of September 28, 2011, staff was directed to amend the existing second unit regulations to be consistent with State law and allow an exception process for certain performance standard requirements.

The City's second unit provisions were adopted (Ordinance 252) in 2004 as part of the adoption of the current zoning regulations. The existing provisions with the recommend changes are included as **Attachment 1**. The State has determined that second units are a valuable form of housing. Second units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others. Homeowners who create second units benefit from added income and increase sense of security. In 2002 the Legislature enacted provisions (Assembly Bill 1866) to further encourage the development of second units by making the approval of second units a ministerial act, not subject to discretionary review or a hearing.

A number of the City's provisions are either not consistent with State law and/or are poorly written. The City's regulations: (1) contain discretionary language when in fact approval of second units that meet the development standards is ministerial; (2) requires that one of the dwelling units be owner-occupied; (3) precludes second units on lots less than 6,000 square feet, except in Town Center second units are allowed on lots of 5,000 square feet or more; (4) precludes manufactured or mobilehome as second units; and (5) infer that detached second units are allowed in the rear yard setback.

State law requires that jurisdictions ministerially approve second units that meet certain development standards. The City's provisions clearly and accurately state that the approval of second units shall be ministerial. However, the City's provisions also indicate "The Planning Secretary *may* grant a permit..." First of all, there is no definition of the Planning Secretary and second, the City does not have a Planning Secretary. In addition, the language "may" infers there's discretion involved. Staff is recommending that the term "Planning Secretary" be eliminated and replaced with "Planning Department" and "may" be replaced with "shall".

Section 17.25.180(4)(a) of the RDMC requires that one of the dwellings be owner-occupied. This provision is not consistent with State law. State law, Section 65852(H)(3) does allow the local agency to require the permit be *issued* to an owner-occupant. Some jurisdictions do require that at the time of application for a second unit, the applicant shall be an owner-occupant. However, it should be noted that the intent of Assembly Bill 1866 was to create and facilitate second units and not constrain their development. The Department of Housing and Community Development is careful to point out that the ministerial regulations for second units should be consistent with other ministerial building permit requirements. According to the State, requirements restricting occupancies of second units may be susceptible to legal challenge. In fact there have been two court cases invalidating second unit occupancy requirements. As such, staff is recommending that no occupancy requirements be required as a condition of approval.

Section 17.25.180(4)(b) of the RDMC also restricts second units to lots 6,000 square feet or larger, except in the Town Center where the minimum lot size for a second unit is 5,000 square feet. Section 65852.2(B) of the California Government Code (CGC) allows local jurisdictions to "Impose standards on second units that include, but are not limited to, parking, height, setback, lot coverage, architectural review, maximum size of unit..." The Department of Housing and Community Development has identified a number of jurisdictions whose second unit regulations meet the intent of AB 1866. About half the jurisdictions identified do identify minimum parcels sizes for second units.

Because many of the existing lots within the City were created when the residential minimum parcel size was, 5,000 square feet, staff is recommending a minimum lot size of 5,000 square feet. Staff is recommending that exceptions to the 5,000 square foot minimum lot size may be allowed with a Conditional Use Permit. It should be noted that the Town Center designation allows detached and attached single family dwellings as a principally permitted use. Therefore, the second unit provisions really have no effect in the Town Center zone.

Section 17.25.180(4)(g) of the RDMC limits the second unit to 50% of the primary unit up to a maximum of 1,200 square feet, except in suburban and rural zones where the second unit shall not exceed 50% of the primary unit regardless of the size of the primary unit. Almost all jurisdictions do not limit the size of second units on parcels that are large enough to be subdivided. Furthermore, prior to the 2002 legislative changes almost all jurisdictions allowed exceptions to the size limitations with either a Special Permit or a Conditional Use Permit. Accordingly, staff recommends that size limitations not apply to parcels or lots that are large enough to be subdivided. However, as a condition of approval, staff is recommending that the applicant prepare and submit a Development Plan demonstrating that the parcel could be subdivided and both residences can be sited on separate parcels and meet setback and lot coverage requirements of the zone. Again the Town Center designation, which includes a significant number of residential lots, does not restrict the size of second or even third units.

Although manufactured or mobile homes are allowed as primary residences, Section 17.25.180(4)(h) of the RDMC does not allow manufactured or mobile homes as second units. This is not consistent with State law. State law and case law is very clear that jurisdictions cannot discriminate against the placement of manufactured or mobile homes as primary or secondary residences. Section 65852.3 of the California Government Code requires that jurisdictions allow manufactured or mobile homes certified under the National Manufacturing Housing and Construction and Safety Standards Act of 1974 on foundations on any lots zoned to allow conventional single-family dwellings and second units. State law does allow local jurisdictions to impose architectural provisions regarding roof overhangs, siding and roofing material. In addition, local jurisdictions may preclude the placement of a manufactured or mobilehome if more than 10 years have elapsed between the manufacture date and the date of application for a building permit. The current manufactured/mobile home provisions of Section 17.25.090 of the RDMC contain the following provisions:

- The manufactured/mobile home must be certified under the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 USC Section 5401 et seq.).
- The manufactured home must have been manufactured less than 10 years before the date the building permit application was submitted.
- The manufactured/mobile home must be installed on a permanent foundation system designed in accordance with the provisions of the City of Rio Dell building code.
- The manufactured/mobile home must comply with all development standards specified in the zone in which the mobile home is to be placed.
- Building Standards. Any manufactured/mobile home placed within the City of Rio Dell in accordance with these provisions shall:
  - Have a minimum 12-inch roof overhang on all sides.
  - Have an exterior siding composed of the following materials:
  - Plywood exterior paneling;



- Masonry or concrete;
- Stucco;
- Any wood products including shingles, shakes, horizontal overlapping board or pressboard siding or any material of wood-like appearance in widths of 12 inches or less.
- Have a roof composed of the following materials:
  - Interlocking roof tiles;
  - Composition shingles;
  - Wood (with fire-retardant treatment);
  - Wood, cement, or slate shingles;
  - Color coated metal or fiberglass.

➤ **Alternative Development Standards.** The Planning Commission is hereby empowered to allow a manufactured/mobile home to be placed within the City of Rio Dell with alternative reasonable development standards substituted for those hereinabove set forth, or to exempt such a home from the strict application of such development standards, upon a showing of good cause. Application for such substitution of, or exemption from, development standards shall be made to the Planning Commission and any appeal to the City Council from a decision of the Planning Commission may be taken. [Ord. 252 § 6.11, 2004.]

Accordingly, staff is recommending that the above standards be applied to second units as well.

Section 17.25.180(4)(k) of the RDMC limits building height to 35 feet for detached second units, except that second dwellings ***located within any portion of the rear yard setback*** shall not exceed one story or 16 feet in height, whichever is less. This provision is poorly written for two reasons; (1) every residential zone other than the Rural zone limits building height to 35 feet; and (2) no structures, including second units, may be located within any yard setback unless a variance was granted. Staff is recommending that detached second units on lots that cannot be subdivided under the current zoning and land use designations to 24 feet. Second units on those lots that can be subdivided will be restricted to the height limits of the zone in which the second unit is located.

### **California Environmental Quality Act (CEQA).**

Second units approved ministerially are statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15268 of the CEQA Guidelines and Section 21080(b)(1) of the Public Resources Code. In addition, second units are categorically exempt from CEQA pursuant to Sections 15301 and 15303 of the CEQA Guidelines and Section 21083 and 21087 of the Public Resources Code.

Based on the nature of the amendments and the exemptions found in the CEQA Guidelines and Public Resources Code, staff has determined the amendments would be Statutorily Exempt pursuant to Section 15061(b) (3) of the CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations. Pursuant to Section 15061(b) (3) of the CEQA Guidelines this exemption is covered by the general rule that CEQA applies only to projects which have the potential for

causing a **significant** effect on the environment. Where it can be seen with certainty that there is no possibility that the project may have a significant effect on the environment, the project is not subject to CEQA. Staff is not aware of any evidence that would suggest that the proposed amendments could result in a **significant** effect on the environment

### **Financial Impact**

The City is responsible for the costs associated with the proposed amendments. The cost is insignificant and will not result in additional budget expenditures or revisions.

### **Alternatives**

The Planning Commission may choose not to recommend approval of the proposed amendments. Staff does not recommend this alternative.

### **Attachments**

Attachment 1: Existing and proposed second unit regulations.

Attachment 2: Resolution No. 046 - 2011 recommending approval of the proposed Second Unit amendments to the City Council.

Attachment 3: Draft Ordinance No. 281 – 2012 amending Title 17, Section 17.25.180 of the Rio Dell Municipal Code.

Attachment 4: Pre-Adoption Summary for Posting.

Attachment 5: Post-Adoption Summary for Posting.

**17.25.180 Second Dwelling Units.**

All second dwelling units, as defined herein, shall be subject to the following regulations:

- (1) Applications for second dwelling units shall be considered ministerially, without discretionary review.
- (2) No more than one second dwelling unit may be constructed on any site.
- (3) The Planning ~~Secretary~~ Department ~~may~~ shall grant a permit for a second dwelling unit which was created prior to the effective date of the ordinance codified in this section, if the Planning ~~Secretary~~ Department finds that the second dwelling unit complies with all of the regulations specified in this section.
- (4) The Planning ~~Secretary~~ Department ~~may~~ shall grant a permit for a new second dwelling unit, if the Planning ~~Secretary~~ Department finds that the second dwelling unit conforms with all the following regulations:
  - (a) ~~One of the dwelling units on the site is owner-occupied. The owner of the property does not have to live on a lot where a second dwelling unit is located.~~
  - (b) The lot on which the unit is proposed totals at least 6,000 5,000 square feet, ~~except for existing lots 5,000 square feet or more in the town center.~~
  - (c) The second dwelling unit contains a separate entrance, entrances for attached units shall not face the frontage street, kitchen, and bathroom; both the existing dwelling and the second unit comply with all requirements of the current City of Rio Dell building code in effect at the time of building construction.
  - (d) The second dwelling unit maintains the scale of adjoining residences and blends into the existing setting by use of appropriate building form, height, materials, color and landscaping appropriate to that setting.
  - (e) The second dwelling unit does not overload the capacity of the neighborhood to absorb it or cause a concentration of units sufficient to change the character of the general area.
  - (f) The parking on the site conforms with the requirements set forth in RDMC 17.25.130.
  - (g) Maximum Size
    - (i) Parcels that cannot be subdivided. The size of the second dwelling unit shall not exceed 50 percent of the size of the primary dwelling unit up to a maximum of 1,200 square feet, except for second dwelling units located within the suburban and rural zones where the second dwelling unit shall not exceed 50 percent of the primary dwelling unit.
    - (ii) Parcels that can be subdivided. The size of the second dwelling unit shall not be restricted, provided the applicant submits a Development Plan demonstrating that the parcel could be subdivided and both residences can be sited on separate parcels and meet setback and lot coverage requirements of the zone.

(h) The second dwelling unit shall not be a manufactured/mobile home. A mobile home or manufactured home may be used as a second dwelling unit so long as it conforms with the provisions of Section 17.25.090.

(i) The detached second unit maintains a minimum separation from the main building of 10 feet.

(j) The second dwelling unit shall be subject to the minimum yard requirements of the zoning district in which it is located.

(k) The maximum building height of a detached second dwelling units on lots that cannot be subdivided shall be 35 24 feet, except as follows: ~~a detached second dwelling unit which is located within any portion of a required rear yard setback shall not exceed one story or 16 feet in height, whichever is less.~~ [Ord. 252 § 6.17.5, 2004.]

(l) Exceptions to the minimum lot size, dwelling size and height limitations may be allowed with a Conditional Use Permit, if the Planning Commission makes the following findings, in addition to the findings required for Conditional Use Permit approval in Section 17.30.030 of the RDMC:

(i) The second unit is subordinate to the principal unit and compatible with the character of the surrounding neighborhood.

RESOLUTION NO. PC 046 - 2011

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIO DELL  
RECOMMENDING AMENDING THE SECOND DWELLING UNIT REGULATIONS, SECTION  
17.25.180 OF THE RIO DELL MUNICIPAL CODE:

**WHEREAS** at the City Council, Planning Commission joint study session of September 28, 2011, staff was directed to amend the existing second unit regulations to be consistent with State law and allow an exception process for certain performance standard requirements; and

**WHEREAS** the City's second unit provisions were adopted (Ordinance 252) in 2004 as part of the adoption of the current zoning regulations; and

**WHEREAS** the State has determined that second units are a valuable form of housing and second units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others; and

**WHEREAS** in 2002 the Legislature enacted provisions (Assembly Bill 1866) to further encourage the development of second units by making the approval of second units a ministerial act, not subject to discretionary review or a hearing; and

**WHEREAS** the City has reviewed and processed the proposed text amendment in conformance with Sections 65350 – 65362 of the California Government Code; and

**WHEREAS** the City has reviewed and processed the proposed text amendments in conformance with Section 17.30.010 of the City of Rio Dell Municipal Code; and

**WHEREAS** the City finds that based on evidence on file and presented in the staff report that the proposed text amendments are deemed to be in the public interest; and

**WHEREAS** the City finds that based on evidence on file and presented in the staff report that the proposed text amendments are consistent and compatible with a comprehensive view of the General Plan and any implementation programs that may be affected; and

**WHEREAS** the City finds that based on evidence on file and presented in the staff report that the potential impacts of the proposed text amendments have been assessed and have been determined not to be detrimental to the public health, safety, or welfare; and

**WHEREAS** the proposed text amendments have been processed in accordance with the applicable provisions of the California Government Code and the California Environmental Quality Act (CEQA); and

**WHEREAS** the City has determined that the project is Statutorily Exempt pursuant to Section 15061(b) (3) of the CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations.

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Commission of the City of Rio Dell recommends that the City Council adopt Ordinance No, 281-2012 amending the Second Dwelling Unit regulations, Section 17.25.180 of the Rio Dell Municipal Code.

**PASSED AND ADOPTED** by the Planning Commission of the City of Rio Dell at their meeting of December 14, 2011 by the following vote:

AYES:	Commissioners:
NOES:	Commissioners:
ABSENT:	Commissioners:
ABSTAIN:	Commissioners:

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Dave Gonzales, Chair

ATTEST:

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Karen Dunham, City Clerk

ORDINANCE NO. 281 - 2012

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIO DELL AMENDING THE  
SECOND DWELLING UNIT REGULATIONS, SECTION 17.25.180 OF THE RIO DELL  
MUNICIPAL CODE:

**WHEREAS** at the City Council, Planning Commission joint study session of September 28, 2011, staff was directed to amend the existing second unit regulations to be consistent with State law and allow an exception process for certain performance standard requirements; and

**WHEREAS** the City's second unit provisions were adopted (Ordinance 252) in 2004 as part of the adoption of the current zoning regulations; and

**WHEREAS** the State has determined that second units are a valuable form of housing and second units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others; and

**WHEREAS** in 2002 the Legislature enacted provisions (Assembly Bill 1866) to further encourage the development of second units by making the approval of second units a ministerial act, not subject to discretionary review or a hearing; and

**WHEREAS** the City has reviewed and processed the proposed text amendment in conformance with Sections 65350 – 65362 of the California Government Code; and

**WHEREAS** the City has reviewed and processed the proposed text amendments in conformance with Section 17.30.010 of the City of Rio Dell Municipal Code; and

**WHEREAS** the City finds that based on evidence on file and presented in the staff report that the proposed text amendments are deemed to be in the public interest; and

**WHEREAS** the City finds that based on evidence on file and presented in the staff report that the proposed text amendments are consistent and compatible with a comprehensive view of the General Plan and any implementation programs that may be affected; and

**WHEREAS** the City finds that based on evidence on file and presented in the staff report that the potential impacts of the proposed text amendments have been assessed and have been determined not to be detrimental to the public health, safety, or welfare; and

**WHEREAS** the proposed text amendments have been processed in accordance with the applicable provisions of the California Government Code and the California Environmental Quality Act (CEQA); and

**WHEREAS** the City has determined that the project is Statutorily Exempt pursuant to Section 15061(b) (3) of the CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations.



**WHEREAS** pursuant to the requirements of state and local law, the Planning Commission conducted a duly noticed public hearing on November 2, 2011 to consider the proposed text amendment, at which time all interested person were given an opportunity to be heard; and

**WHEREAS** the Planning Commission following said public hearing recommends that the City Council approve and adopt the recommended flag lot regulations; and

**WHEREAS** the City Council approves the amending the second dwelling unit regulations, Section 17.25.180 of the Rio Dell Municipal Code; and

**NOW, THEREFORE BE IT RESOLVED**, that the City Council of the City of Rio Dell does hereby ordain as follows:

**Section 1. 17.25.180 Second Dwelling Units.**

All second dwelling units, as defined herein, shall be subject to the following regulations:

(1) Applications for second dwelling units shall be considered ministerially, without discretionary review.

(2) No more than one second dwelling unit may be constructed on any site.

(3) The Planning ~~Secretary~~ Department ~~may~~ shall grant a permit for a second dwelling unit which was created prior to the effective date of the ordinance codified in this section, if the Planning ~~Secretary~~ Department finds that the second dwelling unit complies with all of the regulations specified in this section.

(4) The Planning ~~Secretary~~ Department ~~may~~ shall grant a permit for a new second dwelling unit, if the Planning ~~Secretary~~ Department finds that the second dwelling unit conforms with all the following regulations:

(a) ~~One of the dwelling units on the site is owner-occupied. The owner of the property does not have to live on a lot where a second dwelling unit is located.~~

(b) The lot on which the unit is proposed totals at least ~~6,000~~ 5,000 square feet, ~~except for existing lots 5,000 square feet or more in the town center.~~

(c) The second dwelling unit contains a separate entrance, entrances for attached units shall not face the frontage street, kitchen, and bathroom; both the existing dwelling and the second unit comply with all requirements of the current City of Rio Dell building code in effect at the time of building construction.

(d) The second dwelling unit maintains the scale of adjoining residences and blends into the existing setting by use of appropriate building form, height, materials, color and landscaping appropriate to that setting.

(e) The second dwelling unit does not overload the capacity of the neighborhood to absorb it or cause a concentration of units sufficient to change the character of the general area.



(f) The parking on the site conforms with the requirements set forth in RDMC 17.25.130.

(g) Maximum Size

(i) Parcels that cannot be subdivided. The size of the second dwelling unit shall not exceed 50 percent of the size of the primary dwelling unit up to a maximum of 1,200 square feet, except for second dwelling units located within the suburban and rural zones where the second dwelling unit shall not exceed 50 percent of the primary dwelling unit.

(ii) Parcels that can be subdivided. The size of the second dwelling unit shall not be restricted, provided the applicant submits a Development Plan demonstrating that the parcel could be subdivided and both residences can be sited on separate parcels and meet setback and lot coverage requirements of the zone.

(h) ~~The second dwelling unit shall not be a manufactured/mobile home.~~ A mobile home or manufactured home may be used as a second dwelling unit so long as it conforms with the provisions of Section 17.25.090.

(i) The detached second unit maintains a minimum separation from the main building of 10 feet.

(j) The second dwelling unit shall be subject to the minimum yard requirements of the zoning district in which it is located.

(k) ~~The maximum building height of a detached second dwelling units on lots that cannot be subdivided shall be 35 24 feet, except as follows: a detached second dwelling unit which is located within any portion of a required rear yard setback shall not exceed one story or 16 feet in height, whichever is less. [Ord. 252 § 6.17.5, 2004.]~~

(l) Exceptions to the minimum lot size, dwelling size and height limitations may be allowed with a Conditional Use Permit, if the Planning Commission makes the following findings, in addition to the findings required for Conditional Use Permit approval in Section 17.30.030 of the RDMC:

(i) The second unit is subordinate to the principal unit and compatible with the character of the surrounding neighborhood.

## **Section 2. Severability**

If any provision of the ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

## **Section 3. Limitation of Actions**

Any action to challenge the validity or legality of any provision of this ordinance on any grounds shall be brought by court action commenced within ninety (90) days of the date of adoption of this ordinance.

## **Section 4. Effective Date**

This ordinance becomes effective thirty (30) days after the date of its approval and adoption.

**I HEREBY CERTIFY** that the forgoing Ordinance was duly introduced at a regular meeting of the City Council of the City of Rio Dell on January 3, 2012 and furthermore the forgoing Ordinance was passed, approved and adopted at a regular meeting of the City Council of the City of Rio Dell, held on the 17<sup>th</sup> day of January, 2012 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Julie Woodall, Mayor

ATTEST:

\_\_\_\_\_  
Karen Dunham, City Clerk

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675 Wildwood Avenue  
Rio Dell, CA 95562  
(707) 764-3532



### **SUMMARY FOR POSTING PRIOR TO ADOPTION OF ORDINANCE**

(The summary shall be published or posted at least 10 calendar days prior to the City Councils meetings)

#### **Summary**

On **January 3, 2012** at a regularly scheduled City Council meeting, the Rio Dell City Council will duly introduce, consider for approval and adoption of an Ordinance amending the Second Dwelling Unit regulations, Section 17.25.180 of the Rio Dell Municipal Code.

On **January 17, 2012** at a regularly scheduled City Council meeting, the Rio Dell City Council is scheduled to adopt Ordinance 280 -2012 amending the Second Dwelling Unit regulations, Section 17.25.180 of the Rio Dell Municipal Code.

A certified copy of the full text of the Ordinance is posted in the office of the City Clerk. General questions regarding the Ordinance, the planning process, submission of materials and information not specific to this project may be obtained from the City, 675 Wildwood Avenue, Rio Dell, CA. 95562; telephone (707) 764-3532.

Posted December 23, 2011

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675 Wildwood Avenue  
Rio Dell, CA 95562  
(707) 764-3532



### **SUMMARY FOR POSTING AFTER ADOPTION OF ORDINANCE**

(The summary shall be published or posted within 10 calendar days after the adoption of the ordinance)

#### **Summary**

On **January 17, 2012** at a regularly scheduled City Council meeting, the Rio Dell City Council adopted Ordinance 280 -2012 amending the Second Dwelling Unit regulations, Section 17.25.180 of the Rio Dell Municipal Code.

A certified copy of the full text of the Ordinance is posted in the office of the City Clerk. General questions regarding the Ordinance, the planning process, submission of materials and information not specific to this project may be obtained from the City, 675 Wildwood Avenue, Rio Dell, CA. 95562; telephone (707) 764-3532.